

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
BRYSON CITY DIVISION**

UNITED STATES OF AMERICA)	
Plaintiff,)	
)	
v.)	CASE NO. 2:08CR21-1
)	(Financial Litigation Unit)
CHIARETTA JOAN OWLE,)	
Defendant,)	
)	
and)	
)	
EASTERN BAND OF CHEROKEE INDIANS,)	
Garnishee.)	
)	

ORDER OF CONTINUING GARNISHMENT

THIS MATTER is before the Court on Objection to Garnishment by the defendant, Chiaretta Joan Owle, ("Owle"), and Response of the United States.

The United States obtained a judgment against Owle on February 17, 2009, in the amount of \$17,903.70 which included a \$100.00 assessment and \$17,803.70 in restitution to a victim. Subsequently, the United States sought to garnish Owle's gaming *per capita* revenue. On April 24, 2009, the Court entered a Writ of Continuing Garnishment to the Eastern Band of Cherokee Indians, ("garnishee"). The United States is entitled to garnishment and has satisfied the prerequisites set forth in 15 U.S.C. §1673.

To date, the garnishee has not filed an Answer in this action, however, the garnishee did forward to the US District Clerk of Court a *per capita* distribution in the amount of \$3,892.00.

On May 19, 2009, Owle filed an Objection to Garnishment, stating that the United States is not entitled to garnishment rights due to a Swain County Child Support action and that *per*

capita payments are exempt from any garnishment other than for child support or for debts owed to the Tribe.

IT IS ORDERED that Owle's Objection to Notice of Garnishment, and to the extent it may be construed as a motion to quash the writ of garnishment, is hereby **DENIED**; and

IT IS FURTHER ORDERED that the Order entered on July 2, 2009, in the Cherokee Tribal Court for the defendant's child support obligation, will have priority over the writ of garnishment issued by this Court until such time as the child support obligation has expired; and

IT IS FURTHER ORDERED that subject to the child support Order entered in the Cherokee Tribal Court for the defendant's child support obligation, 75% of the *per capita* distribution payment received by the US Clerk of Court on June 16, 2009, be returned to the Eastern Band of Cherokee Indians.

IT IS FURTHER ORDERED that an Order of Continuing Garnishment is hereby **ENTERED** in the amount of \$17,903.70 computed through April 17, 2009, which attaches to each *per capita* distribution of gaming revenues on account of the Defendant, subject to the priority of the child support obligation; and

IT IS FURTHER ORDERED that any *per capita* gaming revenue that exceeds the child support obligation shall be garnished in favor of the United States; and

Payments should be made payable to the United States Clerk of Court and mailed to the United States Clerk of Court, 401 West Trade Street, Charlotte, NC 28202.

In order to ensure that each payment is credited properly, the following should be included on each check: Court Number 2:08CR21-1, Defendant: Chiaretta Joan Owle.

Signed: July 28, 2009



Lacy H. Thornburg
United States District Judge

